

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED OF OMAHA
LIFE INSURANCE COMPANY,

Plaintiff,

v.

ANITA CLAIBORNE LOY,
KIMBERLY K. CLAIBORNE,
DONALD H. CLAIBORNE,
KELLY JANE FAGER,
ESTATE OF DONALD MORRIS CLAIBORNE,
and ALDERWOODS (TENNESSEE), LLC d/b/a
WEAVER FUNERAL HOME,

Defendants.

No. 3:11-cv-00001
Varlan / Guyton

STIPULATION AND AGREED ORDER OF DISCHARGE, PERMANENT INJUNCTION,
DISTRIBUTION OF INTERPLEADED FUNDS, AND DISMISSAL

The parties stipulate as follows:

1. All defendants have been validly served with process in this civil action, and this Court has jurisdiction over the persons of all defendants.

2. This Court has subject-matter jurisdiction of this civil action.

3. On September 2, 2010, Donald Morris Claiborne ("Decedent") died.

4. At the time of his death, Decedent was enrolled for an aggregate sum of \$168,000 (the "Benefit") in two group life insurance plans sponsored by his employer, Travis Meats, Inc. ("Employer"), which were assigned master policy number GLUG-AE5L and GVTL-AE5L (the "Policies"), and payable by Plaintiff, United of Omaha Life Insurance Company ("United of Omaha"), to an appropriate beneficiary or beneficiaries.

5. Defendant, Anita Claiborne Loy, on one side, and Defendants Kimberly K. Claiborne, Donald H. Claiborne, Kelly Jane Fager, and the Estate of Donald Morris Claiborne, on the other side, are competing claimants to the Benefit.

6. In addition to making a claim for the Benefit, Defendants Loy and Kimberly K. Claiborne executed an assignment of \$3,209.49 of the Benefit to Defendant Weaver Funeral Home, 5815 Western Avenue, Knoxville, Tennessee 37921.

7. The sum of \$169,284.16 that United of Omaha tendered to, and has been deposited with, this Court represents all of the benefits payable under the Policies as a result of the Decedent's death plus accrued interest to the date of deposit.

Based upon these stipulations, which this Court adopts as findings, this Court ORDERS as follows:

1. Since United of Omaha has now performed all duties and obligations under the Policies pertaining to the benefits payable under the Policies as a result of Decedent's death, United of Omaha is hereby discharged from any and all liability to any person, including defendants, Anita Claiborne Loy, Kimberly K. Claiborne, Donald H. Claiborne, Kelly Jane Fager, the Estate of Donald Morris Claiborne, and Alderwoods (Tennessee), LLC d/b/a/ Weaver Funeral Home, concerning those benefits.

2. Defendants, Anita Claiborne Loy, Kimberly K. Claiborne, Donald H. Claiborne, Kelly Jane Fager, the Estate of Donald Morris Claiborne, and Alderwoods (Tennessee), LLC d/b/a/ Weaver Funeral Home, and any other person unidentified at this time who has made a claim or who may make a claim to the interpleaded funds are hereby permanently enjoined and restrained from taking any action or commencing or continuing any proceeding against United of Omaha in relation to the interpleaded funds.

3. All Defendants save Alderwoods (Tennessee), LLC d/b/a Weaver Funeral Home will enter a consent order in Anita B. Loy v. United of Omaha Life Insurance Company, Kimberly K. Claiborne, Kelly J. Fager, and Donald H. Claiborne, No. 179347-3 (Knox County Chancery Court), dismissing United of Omaha from that civil action, with prejudice, and without an award of fees or costs of any type for or against United of Omaha.

4. The Clerk of this Court is directed to disburse the balance of funds on deposit as follows:

1. \$166,074.67 and any earnings accrued while in the registry of the Court payable to “Howard Hogan, Clerk and Master, Knox County Chancery Court” for deposit pending further orders in Knox County Chancery Court cause No.: 179347-3; and
2. \$3,209.49 payable to “Alderwoods (Tennessee), LLC d/b/a Weaver Funeral Home”.

5. The payment to Alderwoods (Tennessee), LLC d/b/a Weaver Funeral Home shall not prejudice the rights to the remaining parties to the Knox County Chancery Court case to contest who should ultimately bear the funeral bill represented by the aforesaid assignment.

6. This civil action, together with all claims presented by all parties, is hereby DISMISSED with prejudice with each party to bear their own attorneys fees and costs.

It is so ORDERED this 23rd day of September, 2011.

s/ Thomas A. Varlan

THOMAS A. VARLAN
UNITED STATES DISTRICT JUDGE

STIPULATED AND AGREED:

s/ S. Russell Headrick

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